



General Assembly

February Session, 2014

Raised Bill No. 196

LCO No. 519



Referred to Committee on INSURANCE AND REAL
ESTATE

Introduced by:
(INS)

***AN ACT CONCERNING GROUP-WIDE SUPERVISION FOR
INTERNATIONALLY ACTIVE INSURANCE GROUPS.***

Be it enacted by the Senate and House of Representatives in General
Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2014*) (a) As used in this
2 section: (1) "Group-wide supervisor" means the chief insurance
3 regulatory official (A) authorized by such official's jurisdiction to
4 conduct and coordinate group-wide supervisory activities, and (B)
5 whose jurisdiction has been determined or acknowledged by the
6 Insurance Commissioner pursuant to subdivisions (2) and (3) of
7 subsection (b) of this section to have sufficient significant contacts with
8 an internationally active insurance group; and (2) "internationally
9 active insurance group" means any insurance holding company system
10 that includes an insurance company registered pursuant to section 38a-
11 135 of the general statutes.

12 (b) (1) The Insurance Commissioner may act as a group-wide
13 supervisor for any internationally active insurance group.

14 (2) (A) The commissioner may determine, in cooperation with other

15 group-wide supervisors, that the commissioner is the appropriate
16 group-wide supervisor for an internationally active insurance group
17 that conducts substantial insurance business operations in this state or
18 has subsidiaries that conduct substantial insurance business operations
19 in this state.

20 (B) The commissioner may acknowledge that the chief insurance
21 regulatory official of another jurisdiction is an appropriate group-wide
22 supervisor for an internationally active insurance group that (i) does
23 not conduct substantial insurance business operations in the United
24 States, (ii) conducts substantial insurance business operations in the
25 United States but not in this state, or (iii) conducts substantial
26 insurance business operations in the United States and in this state but
27 the commissioner has determined, pursuant to the factors set forth in
28 subdivision (3) of this subsection that the chief insurance regulatory
29 official of another jurisdiction is the appropriate group-wide
30 supervisor.

31 (3) The commissioner shall consider the following relevant factors
32 and the relative scale of each in making a determination or
33 acknowledgment under subdivision (2) of this subsection:

34 (A) The location of the home office of the internationally active
35 insurance group or the place of domicile of the ultimate controlling
36 person of the internationally active insurance group;

37 (B) The locations of executive offices of the internationally active
38 insurance group;

39 (C) The locations of origin of the insurance business of the
40 internationally active insurance group;

41 (D) The locations of the assets and liabilities of the internationally
42 active insurance group;

43 (E) The locations of the business operations and activities of the
44 internationally active insurance group; and

45 (F) Whether (i) the chief insurance regulatory official of another
46 jurisdiction is acting or seeking to act as the group-wide supervisor
47 under a regulatory system the commissioner determines to be
48 substantially equivalent to that provided under the laws of this state or
49 is otherwise sufficient in terms of group-wide supervision, enterprise
50 risk analysis and cooperation with other chief insurance regulatory
51 officials, and (ii) such chief insurance regulatory official acting or
52 seeking to act as the group-wide supervisor provides the Insurance
53 Department with reasonably reciprocal recognition and cooperation.

54 (c) (1) The commissioner may collect, pursuant to section 38a-14a of
55 the general statutes, as amended by this act, from any insurance
56 company registered pursuant to section 38a-135 of the general statutes
57 any information necessary for the department to determine whether
58 the commissioner may act as the group-wide supervisor of an
59 internationally active insurance group or to acknowledge that another
60 chief insurance regulatory official of another jurisdiction should act as
61 the group-wide supervisor of such insurance group.

62 (2) Prior to issuing any determination or acknowledgment under
63 this section, the commissioner shall notify the member insurance
64 company registered pursuant to section 38a-135 of the general statutes
65 and the ultimate controlling person, of an internationally active
66 insurance group, of such pending determination or acknowledgment.
67 The commissioner shall provide the internationally active insurance
68 group at least thirty calendar days to submit any additional
69 information pertinent to such determination or acknowledgment that
70 is requested by the commissioner or that such insurance group chooses
71 to submit. The department shall notify such insurance company and
72 ultimate controlling person of its determination or acknowledgment
73 and shall post on the Insurance Department's Internet web site a
74 current list of internationally active insurance groups the
75 commissioner has determined are subject to group-wide supervision
76 by the commissioner.

77 (d) The commissioner may conduct and coordinate the following

78 activities for an internationally active insurance group for which the
79 commissioner is the group-wide supervisor:

80 (1) Assess, pursuant to section 38a-14a of the general statutes, as
81 amended by this act, the enterprise risks within the internationally
82 active insurance group to ensure that material financial conditions of
83 and liquidity risks to the members of such insurance group that are
84 engaged in the business of insurance are identified by management
85 and that reasonable and effective mitigation measures are in place;

86 (2) Request from any member of the internationally active insurance
87 group information necessary and appropriate to assess enterprise risk,
88 including, but not limited to, information about governance, risk
89 assessment and management, capital adequacy and material
90 intercompany transactions;

91 (3) Compel development and implementation of reasonable
92 measures designed to ensure the internationally active insurance
93 group is able to timely recognize and mitigate material risks to the
94 members of such insurance group that are engaged in the business of
95 insurance;

96 (4) Communicate with insurance regulatory officials of the members
97 of the internationally active insurance group and share relevant
98 information, subject to the confidentiality provisions of section 38a-137
99 of the general statutes, as amended by this act, through a supervisory
100 college, as set forth in subsection (n) of section 38a-135 of the general
101 statutes;

102 (5) Enter into agreements with or obtain documentation from any
103 member insurance company registered pursuant to section 38a-135 of
104 the general statutes, any other member of the internationally active
105 insurance group and any chief insurance regulatory official of another
106 jurisdiction, to establish or clarify the commissioner's role as group-
107 wide supervisor and that may include provisions for resolving
108 disputes with other relevant supervisory authorities. No such

109 agreement or documentation shall serve as evidence that an insurance
110 company or person within an insurance company holding system that
111 is not incorporated in this state is doing business in this state or is
112 otherwise subject to the jurisdiction of this state; and

113 (6) Other activities deemed appropriate by the commissioner to
114 effectuate the purposes of this section and sections 38a-129 to 38a-140,
115 inclusive, of the general statutes, as amended by this act.

116 (e) If the commissioner acknowledges that a regulatory official of a
117 jurisdiction not accredited by NAIC is the group-wide supervisor of an
118 internationally active insurance group, the commissioner shall
119 reasonably cooperate through a supervisory college or otherwise with
120 group supervision undertaken by such group-wide supervisor,
121 provided such cooperation is in compliance with the laws of this state
122 and such group-wide supervisor recognizes and cooperates with the
123 commissioner's activities as a group-wide supervisor for other
124 internationally active insurance groups, where applicable. The
125 commissioner may refuse to cooperate if the commissioner determines
126 such recognition and cooperation are not reasonably reciprocated. The
127 commissioner may enter into agreements with or obtain
128 documentation from any member insurance company registered
129 pursuant to section 38a-135 of the general statutes, any affiliate of such
130 insurance company and any regulatory official of another jurisdiction
131 serving as the group-wide supervisor of an internationally active
132 insurance group, to establish or clarify such official's role as group-
133 wide supervisor.

134 (f) The commissioner may adopt regulations, in accordance with the
135 provisions of chapter 54 of the general statutes, to carry out the
136 provisions of this section.

137 (g) An insurance company registered pursuant to section 38a-135 of
138 the general statutes and subject to this section shall be liable for and
139 shall pay the reasonable expenses of the commissioner's administration
140 of this section, including the engagement of the services of attorneys,

141 actuaries and other professionals and all reasonable travel expenses.

142 Sec. 2. Subsection (a) of section 38a-14a of the general statutes is
143 repealed and the following is substituted in lieu thereof (*Effective*
144 *October 1, 2014*):

145 (a) With regard to any insurance company registered under section
146 38a-135, subject to the limitation contained in this section and in
147 addition to the powers that the Insurance Commissioner has under
148 sections 38a-14 and 38a-15 relating to the examination of insurance
149 companies, the commissioner shall have the power to:

150 (1) Examine such company or its affiliates to ascertain the financial
151 condition of the company, including the enterprise risk of such
152 company by (A) the company's ultimate controlling person, (B) any
153 member or combination of members within its insurance holding
154 company system, or (C) its insurance holding company system on a
155 consolidated basis; and

156 (2) (A) Order such company to produce such records, books or other
157 information in the possession of the insurance company or its affiliates
158 as are reasonably necessary to determine compliance with sections 38a-
159 129 to 38a-140, inclusive, as amended by this act, and section 1 of this
160 act. In the event such insurance company fails to comply with such
161 order, the commissioner shall have the power to examine any such
162 affiliate to obtain such information.

163 (B) The commissioner may order the registered insurance company
164 to produce records, books or other information not in its possession if
165 the company can obtain access to such records, books or other
166 information pursuant to a contractual agreement, a statutory
167 obligation or other method. If the insurance company cannot obtain
168 access to such records, books or other information, the company shall
169 provide to the commissioner a detailed explanation of the reason the
170 company cannot obtain the requested records, books or other
171 information, and the identity of the holder of such records, books or

172 other information. If the commissioner deems the explanation to be
173 without merit, the delay in producing the requested records, books or
174 other information under this subparagraph shall be grounds for
175 administrative action in accordance with subsection (c) of section 38a-
176 41.

177 Sec. 3. Subsection (a) of section 38a-137 of the general statutes is
178 repealed and the following is substituted in lieu thereof (*Effective*
179 *October 1, 2014*):

180 (a) All information, documents, materials and copies thereof
181 obtained by or disclosed to the commissioner or any other person in
182 the course of an examination or investigation made pursuant to section
183 38a-14a and all information reported, furnished or filed pursuant to
184 sections 38a-135 and 38a-136 and section 1 of this act shall (1) be
185 confidential by law and privileged, (2) not be subject to disclosure
186 under section 1-210, (3) not be subject to subpoena, and (4) not be
187 subject to discovery or admissible in evidence in any civil action. The
188 commissioner shall not make such information, documents, materials
189 or copies public without the prior written consent of the insurance
190 company to which it pertains unless the commissioner, after giving the
191 insurance company and its affiliates who would be affected thereby
192 notice and opportunity to be heard, determines that the interests of
193 policyholders, securityholders or the public will be served by the
194 publication thereof, in which event the commissioner may publish all
195 or any part thereof in such manner as the commissioner may deem
196 appropriate. The commissioner may use such information, documents,
197 materials or copies in the furtherance of any regulatory or legal action
198 brought as part of the commissioner's official duties.

199 Sec. 4. Subsection (b) of section 38a-129 of the general statutes is
200 repealed and the following is substituted in lieu thereof (*Effective*
201 *October 1, 2014*):

202 (b) As used in sections 38a-129 to 38a-140, inclusive, and section 1 of
203 this act, the following terms shall have the respective meanings

204 hereinafter set forth, unless the context shall otherwise require:

205 (1) "Affiliate" or "affiliated" has the same meaning as provided in
206 section 38a-1;

207 (2) "Commissioner" means the Insurance Commissioner and any
208 assistant to the Insurance Commissioner designated and authorized by
209 the commissioner while acting under such designation;

210 (3) "Control", "controlled by" or "under common control with" has
211 the same meaning as provided in section 38a-1. Control shall be
212 presumed to exist if any person, directly or indirectly, owns, controls,
213 holds with the power to vote, or holds proxies representing, ten per
214 cent or more of the voting securities of any other person. This
215 presumption may be rebutted by a showing that control does not exist
216 in fact. The commissioner may determine, after furnishing all persons
217 in interest notice and opportunity to be heard and making specific
218 findings of fact to support the determination, that control exists in fact,
219 notwithstanding the absence of a presumption to that effect;

220 (4) "Enterprise risk" means any activity, circumstance, event or
221 series of events involving one or more affiliates of an insurer that, if
222 not remedied promptly, is likely to have a material adverse effect upon
223 the financial condition or liquidity of the insurer or the insurer's
224 insurance holding company system as a whole, including, but not
225 limited to, any activity, circumstance, event or series of events that
226 would cause an insurer's risk-based capital to fall below minimum
227 threshold levels, as described in subsection (d) of section 38a-72 or, for
228 a health care center, in subdivision (2) of subsection (a) of section 38a-
229 193, or would cause the insurer to be in a hazardous financial
230 condition;

231 (5) "Insurance holding company system" means two or more
232 affiliated persons, one or more of which is an insurance company;

233 (6) "Insurance company" or "insurer" has the same meaning as
234 provided in section 38a-1, except that it does not include agencies,

235 authorities or instrumentalities of the United States, its possessions
236 and territories, the Commonwealth of Puerto Rico, the District of
237 Columbia, or a state or political subdivision of a state;

238 (7) "NAIC" means the National Association of Insurance
239 Commissioners;

240 (8) "Person" has the same meaning as provided in section 38a-1, or
241 any combination of persons so defined acting in concert;

242 (9) A "securityholder" of a specified person means one who owns
243 any security of such person, including common stock, preferred stock,
244 debt obligations and any other security convertible into or evidencing
245 the right to acquire any of the foregoing;

246 (10) "Subsidiary" has the same meaning as provided in section 38a-1;

247 (11) "Voting security" includes any security convertible into or
248 evidencing a right to acquire a voting security.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2014</i>	New section
Sec. 2	<i>October 1, 2014</i>	38a-14a(a)
Sec. 3	<i>October 1, 2014</i>	38a-137(a)
Sec. 4	<i>October 1, 2014</i>	38a-129(b)

INS *Joint Favorable*